

FEDERAL RESERVE SYSTEM

Banco Financiera Comercial Hondurena, S.A.
Tegucigalpa, Honduras

Order Approving Establishment of a Representative Office

Banco Financiera Comercial Hondurena, S.A. (“Bank”), Tegucigalpa, Honduras, a foreign bank within the meaning of the International Banking Act (“IBA”), has applied under section 10(a) of the IBA (12 U.S.C. § 3107(a)) to establish a representative office in Miami, Florida. The Foreign Bank Supervision Enhancement Act of 1991, which amended the IBA, provides that a foreign bank must obtain the approval of the Board to establish a representative office in the United States.

Notice of the application, affording interested persons an opportunity to submit comments, has been published in a newspaper of general circulation in Miami, Florida (*Miami Daily Business Review*, March 19, 2004). The time for filing comments has expired, and all comments received have been considered.

Bank, with total consolidated assets of approximately \$612 million,¹ is the fourth largest commercial bank in Honduras and provides wholesale and retail banking services through a network of domestic branches.² In the United States, Bank has licenses to operate nonbank subsidiaries in Florida, Georgia, New York, North Carolina, and Virginia that engage in money remittance services.³

¹ Unless otherwise indicated, data are as of December 31, 2004.

² Corporación del Pacífico SA de CV (“CORPASA”), a Honduran holding company, is Bank’s largest shareholder with a 51.3 percent ownership interest in Bank. CORPASA in turn is owned by members of the Atala family.

³ Bank owns its money remittance subsidiaries through Ficohsa Express Holding LLC, a holding company organized in Florida, which in turn is owned by Grupo Financiero Ficohsa Ltd, a company organized in the British Virgin Islands.

The proposed representative office is intended to act as a liaison between Bank's head office in Honduras and its existing and prospective customers in Honduras and the United States. The office would engage in representative functions in connection with the activities of Bank, solicit new business, provide information to customers concerning their accounts, inform U.S.- and Honduran-owned businesses of business opportunities existing in Honduras, and receive applications for extensions of credit and other banking services on behalf of Bank.

In acting on an application by a foreign bank to establish a representative office under the IBA and Regulation K, the Board must consider whether the foreign bank: (1) engages directly in the business of banking outside of the United States; (2) has furnished to the Board the information it needs to assess the application adequately; and (3) is subject to comprehensive supervision on a consolidated basis by its home country supervisor (12 U.S.C. § 3107(a)(2); 12 C.F.R. 211.24(d)(2)).⁴ The Board also may consider additional standards set forth in the IBA and Regulation K (12 U.S.C. ' 3105(d)(3)-(4); 12 C.F.R. 211.24(c)(2)). The Board will consider that the supervision standard has been met where it determines that the applicant bank is subject to a supervisory framework that is consistent with the activities of the proposed

⁴ In assessing the supervision standard, the Board considers, among other factors, the extent to which the home country supervisors: (i) ensure that the bank has adequate procedures for monitoring and controlling its activities worldwide; (ii) obtain information on the condition of the bank and its subsidiaries and offices through regular examination reports, audit reports, or otherwise; (iii) obtain information on the dealings with and relationship between the bank and its affiliates, both foreign and domestic; (iv) receive from the bank financial reports that are consolidated on a worldwide basis or comparable information that permits analysis of the bank's financial condition on a worldwide consolidated basis; (v) evaluate prudential standards, such as capital adequacy and risk asset exposure, on a worldwide basis. These are indicia of comprehensive, consolidated supervision. No single factor is essential, and other elements may inform the Board's determination.

representative office, taking into account the nature of such activities.⁵ This is a lesser standard than the comprehensive, consolidated supervision standard applicable to applications to establish branch or agency offices of a foreign bank. The Board considers the lesser standard sufficient for approval of representative office applications because representative offices may not engage in banking activities (12 C.F.R. 211.24(d)(2)).

In connection with this application, Bank has provided certain commitments that limit the activities of the representative office. It has committed that the representative office would engage only in certain specified activities and would not make credit decisions on behalf of Bank, solicit deposits on behalf of Bank, or engage in activities related to securities trading, foreign exchange, or money transmission. Bank has also committed that the representative office would not solicit business for or promote the services of Bank's U.S. nonbank subsidiaries and would not share office space with those subsidiaries.

As noted above, Bank engages directly in the business of banking outside the United States. Bank also has provided the Board with information necessary to assess the application through submissions that address the relevant issues.

Bank has provided the following information regarding home country supervision. Bank is supervised by the National Commission on Banking and Insurance ("NCBI"). The NCBI is responsible for the regulation and supervision of financial institutions operating in Honduras. The NCBI issues and implements regulations concerning accounting requirements, asset quality, management,

⁵ See, e.g., Jamaica National Building Society, 88 Federal Reserve Bulletin 59 (2002); RHEINHYP Rheinische Hypothekenbank AG, 87 Federal Reserve Bulletin 558 (2001); see also Promstroybank of Russia, 82 Federal Reserve Bulletin 599 (1996); Komerčni Banka, a.s., 82 Federal Reserve Bulletin 597 (1996); Commercial Bank Alon Tiriad, S.A., 82 Federal Reserve Bulletin 592 (1996).

operations, capital adequacy, loan classification and loan loss reserve requirements. In addition, the NCBI has authority to order corrective measures, impose sanctions, and assume management of a financial institution or liquidate it.

The NCBI supervises and regulates Bank in Honduras through a combination of on-site examinations and off-site monitoring.⁶ On-site examinations are conducted on an annual basis and cover capital adequacy, asset quality, profitability, administrative efficiency, liquidity, and compliance with the law. If necessary, the NCBI can also conduct special on-site examinations. Off-site monitoring of Bank is conducted by the NCBI through the review of required monthly and quarterly reports. An external audit is also part of the supervisory process and must be conducted at least annually.⁷

Based on all the facts of record, including the commitments provided by Bank limiting the activities of the proposed office, it has been determined that Bank is subject to a supervisory framework that is consistent with the activities of the proposed representative office, taking into account the nature of such activities.

The additional standards set forth in section 7 of the IBA and Regulation K (see 12 U.S.C. § 3105(d)(3)-(4); 12 C.F.R. 211.24(c)(2)) have also been taken into account. The NCBI has no objection to the establishment of the proposed representative office.

With respect to the financial and managerial resources of Bank, taking into consideration its record of operations in its home country, its overall financial

⁶ The laws governing bank supervision in Honduras are in need of strengthening. The law was amended in September 2004 to require banks to obtain the prior authorization of the NCBI to establish foreign operations and to report monthly to the NCBI on their operations. The NCBI continues to work to obtain additional legislation that would allow it to supervise banks on a fully consolidated basis.

⁷ The external auditing firm must be approved by and registered with the NCBI.

resources, and its standing with its home country supervisor, financial and managerial factors are consistent with approval of the proposed representative office. Bank appears to have the experience and capacity to support the proposed representative office and has established controls and procedures for the proposed representative office to ensure compliance with U.S. law.

Although Honduras is not a member of the Financial Action Task Force (“FATF”), Honduras has enacted laws based on the general recommendations of the FATF. Additionally, Honduras is a member of the Caribbean Financial Action Task Force and participates in other international fora that address the prevention of money laundering.⁸ Money laundering is a criminal offense in Honduras, and banks are required to establish internal policies and procedures for the detection and prevention of money laundering.⁹ Legislation and regulation require banks to adopt know-your-customer policies, report suspicious transactions, and maintain records. Accordingly, Bank has established anti-money laundering policies and procedures, which include the implementation of know-your-customer policies, suspicious activity reporting procedures, and related training programs and manuals. Bank’s external auditors review compliance with requirements to prevent money laundering.

With respect to access to information on Bank’s operations, the restrictions on disclosure in relevant jurisdictions in which Bank operates have been

⁸ Honduras is a member of the Organization of American States Inter-American Drug Abuse Control Commission Experts Group to Control Money Laundering. Honduras is also party to the 1988 UN Convention Against the Illicit Traffic of Narcotics and Psychotropic Substances, the UN International Convention Against Transnational Organized Crime and the UN International Convention for the Suppression of the Financing of Terrorism.

⁹ In 2002, legislation was enacted to strengthen the anti-money laundering regime in Honduras. Among other measures, the legislation expanded the definition of money laundering, strengthened enforcement, and established a financial intelligence unit within the NCBI.

reviewed and relevant government authorities have been communicated with regarding access to information. Bank and its parent have committed to make available to the Board such information on the operations of Bank and any of its affiliates as the Board deems necessary to determine and enforce compliance with the IBA, the Bank Holding Company Act of 1956, as amended, and other applicable federal law. To the extent that the provision of such information to the Board may be prohibited by law or otherwise, Bank and Bank's parent have committed to cooperate with the Board to obtain any necessary consents or waivers that might be required from third parties for disclosure of such information. In addition, subject to certain conditions, the NCBI may share information on Bank's operations with other supervisors, including the Board. In light of these commitments and other facts of record, and subject to the condition described below, it has been determined that Bank has provided adequate assurances of access to any necessary information that the Board may request.

Based on the foregoing and all the facts of record, and subject to the commitments made by Bank and its parent and the terms and conditions set forth in this order, Bank's application to establish the representative office is hereby approved.¹⁰ Should any restrictions on access to information on the operations or activities of Bank or any of its affiliates subsequently interfere with the Board's ability to obtain information to determine and enforce compliance by Bank or its affiliates with applicable federal statutes, the Board may require or recommend termination of any of Bank's direct and indirect activities in the United States. Approval of this application also is specifically conditioned on compliance by Bank and its parent with the conditions imposed in this order and the commitments made to

¹⁰ Approved by the Director of the Division of Banking Supervision and Regulation, with the concurrence of the General Counsel, pursuant to authority delegated by the Board. See 12 C.F.R. 265.7(d)(12).

the Board in connection with this application.¹¹ For purposes of this action, these commitments and conditions are deemed to be conditions imposed in writing by the Board in connection with its finding and decision and, as such, may be enforced in proceedings under applicable law.

By order, approved pursuant to authority delegated by the Board,
effective April 20, 2005.

(signed)

Robert deV. Frierson
Deputy Secretary of the Board

¹¹ The Board's authority to approve the establishment of the proposed representative office parallels the continuing authority of the State of Florida to license offices of a foreign bank. The Board's approval of this application does not supplant the authority of the State of Florida or its agent, the Florida Department of Financial Services, to license the proposed office of Bank in accordance with any terms or conditions that it may impose.